

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NORINE SMITH, for Sylvia)	
Walker,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 04-1689
)	
JO ANNE B. BARNHART,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
Defendant.)	

O R D E R

AND NOW, this 6th day of March, 2006, upon consideration of the Plaintiff's Motions for Review and the Defendant's Motion for Summary Judgment, the Court, upon review of the Commissioner of Social Security's final decision, denying plaintiff's claim for supplemental security income benefits under Subchapter XVI of the Social Security Act, 42 U.S.C. §1381, et seq., finds that the Commissioner's findings are supported by substantial evidence and, accordingly, affirms. See 42 U.S.C. §405(g); Jesurum v. Secretary of U.S. Department of Health & Human Services, 48 F.3d 114, 117 (3d Cir. 1995); Williams v. Sullivan, 970 F.2d 1178, 1182 (3d Cir. 1992), cert. denied sub nom., 507 U.S. 924 (1993); Brown v. Bowen, 845 F.2d 1211, 1213 (3d Cir. 1988). See also Berry v. Sullivan, 738 F. Supp. 942, 944 (W.D. Pa. 1990) (if supported by substantial evidence, the Commissioner's decision must be affirmed, as a federal

court may neither reweigh the evidence, nor reverse, merely because it would have decided the claim differently) (citing Cotter v. Harris, 642 F.2d 700, 705 (3d Cir. 1981)).¹

Therefore, IT IS HEREBY ORDERED that plaintiff's Motions for Review (document Nos. 7 and 10) are DENIED and defendant's Motion for Summary Judgment (document No. 8) is GRANTED.

S/Alan N. Bloch
United States District Judge

cc/ecf: Norine Smith
(forwarded certified mail, return receipt requested;
and regular first class mail)

Asst. U.S. Atty. Paul Skirtich

¹ The Plaintiff has submitted, for the Court's consideration, a development evaluation of her daughter which was performed on November 23, 2004, several months after the ALJ issued his unfavorable decision in this case. Ordinarily, evidence that was not before the ALJ cannot be considered by a district court in its determination of whether or not the ALJ's decision was supported by substantial evidence. Matthews v. Apfel, 239 F.3d 589, 594 (3d Cir.2001). The Court may, however, remand the case back to the Commissioner for consideration of such evidence so long as it finds that the evidence is new, material, and that the Plaintiff has demonstrated good cause for not having incorporated the new evidence into the administrative record. Matthews, 239 F.3d at 594. Here, the November 23, 2004 evaluation of Plaintiff's daughter relates to a time period after that addressed at the hearing and is, therefore, immaterial to the ALJ's decision. Wilson v. Halter, 2001 WL 410542 (E.D.Pa); Szubak v. Secretary of Health & Human Services, 745 F.2d 831, 833 (3d Cir. 1984). Accordingly, the submission of this subsequent evaluation by the Plaintiff does not warrant a remand.